

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MICHAEL FOLEY,

Case No. 2:17-CV-1024 JCM (VCF)

Plaintiff(s),

ORDER

V.

SYLVIA TEUTON, et al.,

Defendant(s).

Presently before the court is plaintiff Michael Foley's motion to dismiss defendant Clark County Detention Center ("CCDC"). (ECF No. 77).

This matter was initiated on April 10, 2017. (ECF No. 1). Having been affirmed at the Ninth Circuit, this court ordered the remaining parties, plaintiff Michael Foley and defendant Clark County Detention Center, to file a status report with how this case is expected to proceed. (ECF No. 75).

On August 13, 2020, former defendant Joseph Lombardo timely filed a status report, arguing that this case is ripe for dismissal because “(1) CCDC is not an individual or an entity, only a building; (2) the proper party is LVMPD which was not named in the Complaint; (3) Plaintiff failed to take any timely steps to serve ‘CCDC’; and (4) Plaintiff never sought to amend his Complaint to name LVMPD.” (ECF No. 76). Plaintiff Michael Foley filed no status report or response.

Indeed, the record shows that the CCDC's summons was returned unexecuted on January 5, 2018. (ECF No. 41). In over two years, plaintiff has made no efforts to remedy this defect in service nor appropriately amend his complaint.

1 On September 9, 2020, plaintiff filed the instant motion to dismiss. (ECF No. 77). Plaintiff
2 seeks to dismiss the remaining defendant, conceding that “this court will not recognize an
3 inanimate object like [CCDC].” (*Id.*). Plaintiff construes Lombardo’s status report as non-
4 opposition, and this court will too. (ECF No. 75).

5 In light of the foregoing, this court grants plaintiff's motion to dismiss the remaining
6 defendant CCDC. *See Kile v. N. Pac. Const. Co.*, 919 F.2d 145 (9th Cir. 1990) ("The district court
7 did not abuse its discretion in dismissing the international union *sua sponte* for lack of service of
8 process five years after filing the complaint."). Now having resolved all claims against all
9 defendants, this matter is hereby closed.

10 | Accordingly,

11 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff Michael Foley's
12 motion to dismiss be, and hereby is, GRANTED. (ECF No. 77).

13 The clerk is ordered to close this case.

14 DATED September 10, 2020.

James C. Mahan
UNITED STATES DISTRICT JUDGE